



**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**15 CFR Part 902**

**50 CFR Part 680**

**[Docket No. 130820737-5408-02]**

**RIN 0648-BD61**

**Fisheries of the Exclusive Economic Zone off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Program; Amendment 45; Pacific Cod Sideboard Allocations in the Gulf of Alaska**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS publishes regulations to implement Amendment 45 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (Crab FMP). Amendment 45 establishes, for a limited period of time, a process for NMFS to permanently remove Pacific cod catch limits, known as sideboard limits, which are applicable to certain hook-and-line catcher/processors in the Central and Western Gulf of Alaska (GOA) Regulatory Areas. This action authorizes NMFS to remove these Pacific cod sideboard limits in the Central and/or Western GOA if each eligible participant in the hook-and-line catcher/processor sector in a regulatory area signs and submits a request

that NMFS remove the sideboard limit. Each eligible participant will be required to submit the request to NMFS within 1 year of the date of publication of this final rule. This action is necessary to provide participants in the Central and Western GOA hook-and-line catcher/processor sectors with an opportunity to cooperatively coordinate harvests of Pacific cod through private arrangement to the participants' mutual benefit, which would remove the need for sideboard limits in these regulatory areas. This action is intended to promote the goals and objectives of the Crab FMP, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and other applicable law.

**DATES:** Effective [*INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER*].

**ADDRESSES:** Electronic copies of the following documents may be obtained from <http://www.regulations.gov> or from the NMFS Alaska Region website at <http://alaskafisheries.noaa.gov>:

- The Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA), and the Categorical Exclusion prepared for this action (collectively referred to as the "Analysis");
- The Harvest Specifications Supplemental Information Report (SIR) prepared for the final 2015 and 2016 harvest specifications;
- The Final Environmental Assessment/Final RIR/IRFA for Amendment 83 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) Allocation of Pacific Cod Among Sectors in the Western and Central GOA; and

- The Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (Harvest Specifications EIS).

Written comments regarding the burden-hour estimates or other aspects of the collection of information requirements contained in this final rule may be submitted by mail to NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; or by e-mail to [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov) or fax to 202-395-5806.

**FOR FURTHER INFORMATION CONTACT:** Rachel Baker, 907-586-7228

**SUPPLEMENTARY INFORMATION:** This final rule implements Amendment 45 to the Crab FMP. The king and Tanner crab fisheries in the exclusive economic zone (EEZ) of the Bering Sea and Aleutian Islands are managed under the Crab FMP. While the groundfish fisheries in the EEZ of the Gulf of Alaska are managed primarily under the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP), some aspects of groundfish fishing in the Gulf of Alaska are managed under the Crab FMP.

NMFS published the Notice of Availability for Amendment 45 in the **Federal Register** on February 2, 2015 (80 FR 5499), with a 60-day comment period that ended April 3, 2015. The Secretary approved Amendment 45 on April 29, 2015, after accounting for information from the public, and determining that Amendment 45 is consistent with the Crab FMP, the Magnuson-Stevens Act, and other applicable law. NMFS published a proposed rule for Amendment 45 on February 12, 2015 (80 FR 7817). The 30-day comment period on the proposed rule ended March 16, 2015. NMFS received one comment letter during the comment periods on Amendment 45 and the

proposed rule. A summary of the comment and NMFS' response is provided in the Comment and Response section of this preamble.

## **Background**

A detailed review of the provisions of Amendment 45, the implementing regulations, and the rationale for these regulations is provided in the preamble to the proposed rule (79 FR 36702, June 30, 2014) and is not repeated here. The proposed rule is available from the NMFS Alaska Region web site (see **ADDRESSES**).

This final rule establishes, for a limited period of time, a regulatory process for NMFS to permanently remove Pacific cod catch limits, known as sideboard limits, that are applicable to some participants in the Central GOA Regulatory Area (Central GOA) and Western GOA Regulatory Area (Western GOA) hook-and-line catcher/processor sectors. This final rule preamble provides a brief description of Pacific cod fishery management for the Central and Western GOA hook-and-line catcher/processor sectors and the management provisions that apply to Amendment 45 and this final rule.

### *Management of Pacific Cod in the Central and Western GOA*

NMFS implements conservation and management measures, such as catch limits, to prevent overfishing while achieving the optimum yield in federally managed fisheries. Catch limits for GOA Pacific cod are established as part of the annual harvest specifications process for GOA groundfish. The North Pacific Fishery Management Council (Council) annually recommends, and NMFS specifies, an amount of catch at which overfishing is occurring (i.e., overfishing limit or OFL), an acceptable biological catch (ABC), and a total allowable catch (TAC) for each stock or stock complex (i.e., species or species group). Separate TACs are calculated using the apportionment of TAC

for specific regulatory areas to limit catch and ensure that fisheries can be effectively managed. Specific to this final rule, the Council recommends, and NMFS implements an OFL and ABC for Pacific cod in the GOA, and separate TACs for the Eastern, Central, and Western GOA Pacific cod fisheries. NMFS apportions each TAC among various gear types (e.g., pot or trawl gear), operation types (e.g., catcher vessels and catcher/processors), and sectors (e.g., hook-and-line catcher/processors) as required by regulation (see regulations at § 680.20(a)). Similarly, the Council recommends and NMFS establishes sideboard limits as part of the harvest specifications process. Sideboard limits constrain harvests by specific vessels based on regulatory requirements established under various management programs. Sideboard limits are calculated as a portion of the TACs for some groundfish species and established in the annual harvest specifications. The resulting sideboard limits for Pacific cod, expressed in metric tons, are published in the annual GOA groundfish harvest specification notices (for the most recent example, see 80 FR 10250, February 25, 2015).

Under this final rule, the GOA Pacific cod OFL, ABC, TACs, and sector allocations will continue to be established through the annual GOA harvest specifications process. NMFS will continue to manage Pacific cod in the GOA by limiting harvests to the established TACs and sector allocations. Therefore, this final rule does not increase the likelihood that an OFL, ABC, TAC, or sector catch limit will be exceeded. See the preamble to the proposed rule and sections 1.5.2 and 3.2 of the Analysis for additional details.

NMFS also manages Pacific cod fisheries through the License Limitation Program (LLP). A vessel is required to be named on an LLP license before it can be

deployed to directed fish (i.e., specifically target) for Pacific cod in Federal waters of the GOA. NMFS has issued a specific number of LLP licenses, which establish an upper limit on the total number of potential participants in GOA Pacific cod fisheries. LLP licenses must have the necessary endorsements to directed fish for Pacific cod in the GOA. Specific to this final rule, participants in the Central GOA and Western GOA hook-and-line catcher/processor sectors must have an LLP license with endorsements assigned for 1) Central GOA or Western GOA, 2) hook-and-line gear, 3) catcher/processor, and 4) Pacific cod.

*GOA Pacific Cod Sideboard Limits Established Under the BSAI Crab Rationalization Program*

The Bering Sea and Aleutian Islands (BSAI) Crab Rationalization Program (CR Program) was implemented in 2005 and established a catch share program that allocates BSAI crab resources among harvesters, processors, and coastal communities. As part of the CR Program, eligible vessel owners and vessel captains were allocated quota share (QS) in several valuable crab fisheries, including the Bering Sea snow crab (*Chionoecetes opilio*) fishery. The CR Program provides increased flexibility for crab fishermen to choose when and where to fish or whether to lease their crab QS and fish for species other than crab. The Council and NMFS recognized that the benefits of the CR Program could create incentives for recipients of snow crab QS to increase their level of participation in groundfish fisheries, especially Pacific cod fisheries in the Central and Western GOA. Therefore, Federal regulations implementing the CR Program established CR Program GOA sideboards to limit the potential adverse effects of the CR Program on

GOA groundfish fisheries. These sideboards prevent CR Program participants from preempting fishermen in the GOA that did not receive benefits from the CR Program.

During a fishing year, NMFS manages CR Program GOA Pacific cod sideboard limits by tracking all catch of vessels subject to a sideboard limit to make sure the sideboard limits are not exceeded. NMFS will prohibit directed fishing for GOA Pacific cod in a specific regulatory area by vessels subject to the CR Program GOA Pacific cod sideboard limit through the annual harvest specifications if NMFS determines at the start of the fishing year that the CR Program GOA Pacific cod sideboard limit is insufficient to support a directed fishery by those vessels (see regulations at § 680.22(e)(2) and (3)).

The preamble to the proposed rule and section 1.6 of the Analysis describe that some of the vessels and LLP licenses active in the hook-and-line catcher/processor sector are subject to CR Program GOA Pacific cod sideboard limits. The hook-and-line catcher/processor sector operating in the EEZ off Alaska currently consists of 36 vessels. NMFS has determined that eight of these 36 vessels are subject to the CR Program GOA Pacific cod sideboard limits. The Federal Fisheries Permit (FFP) issued by NMFS to each of these eight vessels includes a designation indicating that the vessel is subject to the CR Program GOA Pacific cod sideboard limits. Of the LLP licenses that authorize a vessel to participate in the Central and/or Western GOA Pacific cod hook-and-line catcher/processor sector, NMFS has determined that five LLP licenses are subject to the CR Program GOA Pacific cod sideboard limits. These five LLP licenses include a designation indicating that the license is subject to the CR Program GOA Pacific cod sideboard limits.

*Allocations of Pacific Cod in the GOA*

CR Program GOA Pacific cod sideboard limits constrain the harvest of GOA Pacific cod by vessels and holders of license limitation program (LLP) licenses that were used to harvest specific amounts of Pacific cod in the GOA and snow crab in the Bering Sea and Aleutian Islands Management Area. Originally, the CR Program GOA Pacific cod sideboard limits for the Eastern, Central, and Western GOA were calculated using the Pacific cod TACs for each area. With the implementation of Amendment 83 to the Fishery Management Plan for Gulf of Alaska Groundfish in 2012, the CR Program GOA Pacific cod sideboard limits in the Central and Western GOA are calculated using the apportionment of Pacific cod TAC established for specific gear types (e.g., hook-and-line gear, pot gear) and by operation type (i.e., catcher/processor vessels, catcher vessels). CR Program GOA Pacific cod sideboard limits in the Central and Western GOA for vessels using hook-and-line gear and operating as catcher/processors (the hook-and-line catcher/processor sector) are now much smaller than they were prior to Amendment 83. As a result, NMFS prohibits directed fishing for Pacific cod in the Central and Western GOA by participants in the hook-and-line catcher/processor sector who are subject to CR Program GOA Pacific cod sideboard limits so that these small sideboard limits are not exceeded. The proposed rule preamble describes that Amendment 83 did not change Pacific cod management in the Eastern GOA because the same level of competition, or race for fish, did not exist in the Eastern GOA compared to the Central and Western GOA. As a result, the CR Program GOA Pacific cod sideboard limits in the Eastern GOA were not recalculated for gear and operation type.

*The Effect of Pacific Cod Sideboard Limits on Hook-and-Line Catcher/Processors in the Central and Western GOA*



The CR Program GOA Pacific cod sideboard limits affected the eight vessels and the five LLP licenses subject to the sideboard limits differently starting in 2012 under Amendment 83 than under management provisions when the CR Program was first implemented in 2006 through 2011. Since the implementation of Amendment 83, NMFS has prohibited directed fishing by participants subject to CR Program GOA Pacific cod sideboard limits in the hook-and-line catcher/processor sector in the Central and Western GOA. NMFS has made this determination each year based on the small amount of the sideboard limits, the need to account for incidental catch of Pacific cod by sideboarded hook-and-line catcher/processors in other groundfish fisheries in the Central and Western GOA, and the potential catch rates of Pacific cod by sideboarded hook-and-line catcher/processors relative to the sideboard limits. The proposed rule preamble and sections 1.5 and 1.6 of the Analysis provide additional detail on the impacts of Amendment 83 on participants in the Central and Western GOA hook-and-line catcher/processor sectors who are subject to CR Program GOA Pacific cod sideboard limits.

#### *Implementation of this Action*

This final rule is necessary to provide participants in the Central and Western GOA hook-and-line catcher/processor sectors with an opportunity to cooperatively coordinate harvests of Pacific cod through private arrangement to the participants' mutual benefit, which would remove the need for current regulations that impose sideboard harvest restrictions on some participants in the sectors. This final rule establishes regulatory conditions that must be met prior to the removal of CR Program GOA Pacific cod sideboard limits for the hook-and-line catcher/processor sectors in the Central and/or

Western GOA. NMFS will remove the sideboard limits if each person holding an LLP license or LLP licenses with endorsements that authorize directed fishing for Pacific cod as a hook-and-line catcher/processor in the Central or Western GOA (i.e., eligible participants) provides NMFS with a signed form requesting that NMFS remove the Pacific cod sideboard limit for that regulatory area.

Under this final rule, NMFS will not remove the Pacific cod sideboard limit for the Central or Western GOA unless each eligible participant in the Central or Western GOA submits to NMFS a completed Request to Extinguish Pacific Cod Sideboard Limit in the Central or Western GOA. As described in the preamble to the proposed rule, the holders of LLP licenses with the necessary endorsements, rather than vessels owners, represent the universe of eligible fishery participants in the Central and Western GOA hook-and-line catcher/processor sectors. This final rule adds Table 10 to Part 680 to identify the 23 LLP licenses with endorsements that authorize a vessel to catch and process Pacific cod at-sea using hook-and-line gear in the Central GOA, and the 18 LLP licenses with endorsements that authorize a vessel to catch and process Pacific cod at-sea using hook-and-line gear in the Western GOA. The holders of the LLP licenses listed in Table 10 to Part 680 comprise the universe of participants eligible to request removal of a GOA Pacific cod sideboard limit. Each holder of an LLP license with Central GOA endorsements listed in Table 10 to Part 680 will be required to complete and submit to NMFS the form requesting removal of the CR Program GOA Pacific cod sideboard limit in the Central GOA. Similarly, each holder of an LLP license with Western GOA endorsements listed in Table 10 to Part 680 will be required to complete and submit to

NMFS the form requesting removal of the CR Program GOA sideboard limit in the Western GOA.

This final rule modifies regulations at 50 CFR 680.22(e) that require NMFS to establish Pacific cod sideboard limits for hook-and-line catcher/processors during the annual harvest specification process. Under this final rule, NMFS will not establish these sideboard limits for the Central or Western GOA if all participants eligible to use a hook-and-line catcher/processor to fish for Pacific cod in the regulatory area sign and submit to NMFS a request that NMFS remove the sideboard limit for that regulatory area.

Each eligible participant will be required to submit that request to NMFS on or before May 18, 2016. Each eligible participant in the Central and/or Western GOA must sign an affidavit, included on a form, to request that NMFS no longer establish Pacific cod sideboard limits for the hook-and-line catcher/processor sector in the Central and/or Western GOA. If NMFS receives the required affidavits during the 1-year period, NMFS will announce the permanent removal of the Central and/or Western GOA sideboard limits during the annual GOA groundfish specification process and will no longer establish Pacific cod sideboard limits for the hook-and-line catcher/processor sector in the Central and/or Western GOA. If NMFS does not receive the required affidavits on or before May 18, 2016, NMFS will continue to establish GOA Pacific cod sideboard limits for the hook-and-line catcher/processor sectors through the annual GOA groundfish specification process and the opportunity to remove them will expire.

Although this final rule is intended to provide an opportunity for coordination and cooperation among all eligible participants in both the Central and Western GOA, this final rule allows the eligible participants to submit requests for each regulatory area

separately. Therefore, a CR Program GOA Pacific cod sideboard limit could be removed for one regulatory area without requiring all eligible participants in both areas to agree.

This final rule adds regulations at § 680.22(e)(1)(ii) to clarify that NMFS will not establish CR Program GOA Pacific cod sideboard limits for the hook-and-line catcher/processor sector in a regulatory area through the annual harvest specification process if NMFS receives completed request forms from all eligible participants in a regulatory area by the deadline. CR Program GOA Pacific cod sideboard limits are currently implemented through the annual harvest specification process; therefore, CR program GOA Pacific cod sideboard limits could not be removed immediately upon receipt by NMFS of the required forms. NMFS will remove a CR Program GOA Pacific cod sideboard limit for the hook-and-line catcher/processor sector during the next annual harvest specification cycle for GOA groundfish.

This final rule does not require eligible participants to enter into a private contractual agreement to coordinate fishing practices within that regulatory area prior to submitting to NMFS the required forms requesting removal of a CR Program GOA Pacific cod sideboard limit. If the holders of the LLP licenses listed in Table 10 to Part 680 are unable, or unwilling, to agree to request that NMFS remove a CR Program GOA Pacific cod sideboard limit in a regulatory area within the time provided, the sideboard limit for that regulatory area will continue to apply. Maintaining the CR Program GOA Pacific cod sideboard limits—if unanimous agreement for their removal is not reached by the eligible participants—is consistent with the objectives of sideboard management as established by the CR Program and the sideboard limit calculation method established under regulations implementing Amendment 83. Removing sideboard limits without

unanimous agreement of all of the eligible participants could indicate that eligible participants have not agreed to coordinate harvests. This could increase the likelihood of a race for fish and could allow those who received QS under the CR Program to expand their efforts in the GOA Pacific cod fisheries. Such a result would not be consistent with the goals of the CR Program or the Council's objectives for this action.

This final rule does not modify the CR Program GOA Pacific cod sideboard limits for hook-and-line catcher/processors in the Eastern GOA. As explained in the preamble to the proposed rule, this action does not remove the sideboard designations on the FFPs for the eight sideboarded vessels or the five sideboarded LLP licenses, and these vessels and LLP licenses will still be subject to a CR Program Pacific cod sideboard limit if they are used in the Eastern GOA.

### **Changes from the Proposed Rule**

NMFS made no changes from the proposed to final rule.

### **OMB Revisions to Paperwork Reduction Act References in 15 CFR 902.1(b)**

Section 3507(c)(B)(i) of the PRA requires that agencies inventory and display a current control number assigned by the Director, OMB, for each agency information collection. Section 902.1(b) identifies the location of NOAA regulations for which OMB approval numbers have been issued. Because this final rule revises and adds data elements within a collection-of-information for recordkeeping and reporting requirements, 15 CFR 902.1(b) is revised to reference correctly the sections resulting from this final rule.

### **Comment and Response**

During the public comment periods for the Notice of Availability for Amendment 45 and the proposed rule to implement Amendment 45, NMFS received one comment letter that did not support Amendment 45 and the proposed rule. A summary of the comment received and NMFS' response follows.

*Comment:* Amendment 45 is not consistent with National Standard 1 of the Magnuson-Stevens Act because it does not prevent overfishing while achieving the optimum yield of fish stocks. Under Amendment 45, industry participants would utilize self-regulation and private contractual agreements to limit GOA Pacific cod harvests if all operations consent to eliminating GOA Pacific cod sideboard limits. This self-regulation would lead to overfishing because industry participants do not have sufficient biological information to establish sustainable catch limits. Furthermore, individual fishing operations have a significant economic incentive to agree to eliminate the Pacific cod sideboard catch limits and then engage in overfishing in order to increase fishing revenue.

*Response:* NMFS has determined that Amendment 45 and this final rule are consistent with the Magnuson-Stevens Act, the Crab FMP, and other applicable law. Under Amendment 45 and this final rule, the Council and NMFS will continue to manage the Pacific cod fisheries in the GOA to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery, consistent with National Standard 1 of the Magnuson-Stevens Act and the GOA FMP. Section 3.2.1 of the GOA FMP defines the OFL as the level above which overfishing is occurring for a species or species group. NMFS manages fisheries in an effort to ensure that no OFLs are exceeded in any year. Section 3.2.4.3 of the GOA FMP clarifies that if catch is approaching an OFL, NMFS will prevent overfishing by closing specific fisheries identified by gear and area

that incur the greatest catch. Closures expand to other fisheries if the rate of take is not sufficiently slowed. Regulations at § 679.20(d)(1), (d)(2), and (d)(3) define the process NMFS uses to limit or prohibit fishing to prevent overfishing and maintain total catch at or below the OFL.

Amendment 45 and this final rule establish a process for NMFS to remove GOA Pacific cod sideboard limits. The GOA Pacific cod sideboard limits are an additional level of harvest limits within the GOA Pacific cod sector allocations. Removal of sideboard limits does not mean the GOA Pacific cod fisheries will not have a harvest limit. The proposed rule preamble and sections 1.5.2 and 3.2 of the Analysis describe that Pacific cod OFLs, ABCs, TACs, and sector allocations will continue to be established through the annual GOA harvest specifications process. Amendment 45 and this final rule do not change or otherwise supersede that process. NMFS will continue to manage Pacific cod in the GOA by limiting harvests to the established TACs and sector allocations as specified in regulations at § 679.20. Therefore, this final rule does not increase the likelihood that an OFL, ABC, TAC, or sector catch limit will be exceeded. A detailed description of the annual harvest specification process is provided in the Harvest Specifications SIR prepared for the final 2015 and 2016 harvest specifications and the Alaska Groundfish Harvest Specifications EIS (see **ADDRESSES**).

The Council determined, and NMFS agrees, that Amendment 45 and this final rule are necessary to provide participants in the Central and Western GOA hook-and-line catcher/processor sectors with an opportunity to cooperatively coordinate harvests of Pacific cod through private arrangement to the participants' mutual benefit, which would remove the need for sideboard limits in these regulatory areas. The preamble to the

proposed rule (79 FR 36702, June 30, 2014) and section 1.4 of the Analysis describe that Amendment 45 and this final rule are intended to balance the Council's competing objectives: 1) to relieve the CR Program GOA Pacific cod sideboard limits for some vessels and LLP licenses that benefitted from allocations under the CR program, and 2) to protect the GOA-only participants from adverse impacts that may result from removal of those sideboard limits.

### **Classification**

The Administrator, Alaska Region, NMFS, determined that Amendment 45 to the Crab FMP is necessary for the conservation and management of the GOA groundfish fishery and that it is consistent with the Crab FMP, GOA FMP, the Magnuson-Stevens Act, and other applicable laws.

### *Small Entity Compliance Guide*

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis (FRFA), the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. The preamble to the proposed rule and this final rule serve as the small entity compliance guide. This action does not require any additional compliance from small entities that is not described in the preambles. Copies of this final rule are available from NMFS at the following website: <http://alaskafisheries.noaa.gov>.

### *Executive Order 12866*



This rule has been determined to be not significant for purposes of Executive Order 12866.

*Final Regulatory Flexibility Analysis*

Section 604 of the Regulatory Flexibility Act (RFA) requires that, when an agency promulgates a final rule under section 553 of Title 5 of the U.S. Code, after being required by that section, or any other law, to publish a general notice of proposed rulemaking, the agency shall prepare a final regulatory flexibility analysis.

Section 604 describes the contents of a FRFA: (1) a statement of the need for, and objectives of, the rule; (2) a statement of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; (3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments; (4) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available; (5) a description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (6) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final

rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

The “universe” of entities to be considered in a FRFA generally includes only those small entities that can reasonably be expected to be directly regulated by the final rule. If the effects of the rule fall primarily on a distinct segment of the industry, or portion thereof (e.g., user group, gear type, geographic area), that segment would be considered the universe for purposes of this analysis.

The Small Business Administration (SBA) has established size standards for all major industry sectors in the U.S., including commercial finfish harvesters (NAICS code 114111), commercial shellfish harvesters (NAICS code 114112), other commercial marine harvesters (NAICS code 114119), for-hire businesses (NAICS code 487210), marinas (NAICS code 713930), seafood dealers/wholesalers (NAICS code 424460), and seafood processors (NAICS code 311710). A business primarily involved in finfish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual gross receipts not in excess of \$20.5 million, for all its affiliated operations worldwide. For commercial shellfish harvesters, the same qualifiers apply, except the combined annual gross receipts threshold is \$5.5 million. For other commercial marine harvesters, for-hire fishing businesses, and marinas, the same qualifiers apply, except the combined annual gross receipts threshold is \$7.5 million.

A business primarily involved in seafood processing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual employment, counting all

individuals employed on a full-time, part-time, or other basis, not in excess of 500 employees for all its affiliated operations worldwide. For seafood dealers/wholesalers, the same qualifiers apply, except the employment threshold is 100 employees. In determining a concern's number of employees, SBA counts all individuals employed on a full-time, part-time, or other basis. This includes employees obtained from a temporary employee agency, professional employee organization or leasing concern. SBA will consider the totality of the circumstances, including criteria used by the Internal Revenue Service (IRS) for Federal income tax purposes, in determining whether individuals are employees of a concern. Volunteers (*i.e.*, individuals who receive no compensation, including no in-kind compensation, for work performed) are not considered employees. Where the size standard is number of employees, the method for determining a concern's size includes the following principles: (1) the average number of employees of the concern used (including the employees of its domestic and foreign affiliates) based upon numbers of employees for each of the pay periods for the preceding completed 12 calendar months; (2) part-time and temporary employees are counted the same as full-time employees.

#### *Need for and Objectives of this Action*

A statement of the need for, and objectives of, the rule is contained in the preamble to this final rule and is not repeated here.

#### *Summary of Significant Issues Raised during Public Comment*

NMFS published a proposed rule on February 12, 2015 (80 FR 7817). An initial regulatory flexibility analysis (IRFA) was prepared and summarized in the "Classification" section of the preamble to the proposed rule. The comment period

closed on March 16, 2015. NMFS received one letter of public comment on the proposed rule. This comment letter did not address the IRFA or the economic impacts of the rule generally. The Chief Counsel for Advocacy of the SBA did not file any comments on the proposed rule.

*Number and Description of Small Entities Regulated by this Action*

This action would directly regulate eight entities. These eight entities include the owners of the eight vessels, and the holders of the five LLP licenses currently subject to CR Program GOA Pacific cod sideboard limits in the Central and Western GOA hook-and-line catcher/processor sectors. The owners of the eight vessels and holders of the five LLP licenses directly regulated by this action are affiliated through their membership in the Freezer Longline Conservation Cooperative (FLCC). The FLCC represents LLP holders and the owners and operators of vessels that participate in the Pacific cod hook-and-line catcher/processor sector in the Federal waters of the BSAI. The FLCC is comprised of businesses that are engaged in the harvesting and processing of finfish. The annual revenue of members of the FLCC has exceeded \$130 million per year since its formation, and \$172 million in 2012, the most recent year of available revenue data (see Table 1-14 in Section 1.6 of the Analysis for additional detail). Members of the FLCC are not considered small entities because the annual revenue of the cooperative exceeds the size standards for small entities.

Three entities hold LLP licenses and own vessels that operate only in the GOA as hook-and-line catcher/processors. These three entities are not directly regulated by the CR Program GOA Pacific cod sideboard limits, and are not members of the FLCC. One entity owns a vessel named on an LLP license with Central GOA Pacific cod hook-and-

line catcher/processor endorsements; the other two entities each own a vessel named on LLP licenses with Western GOA Pacific cod hook-and-line catcher/processor endorsements. These three entities are not directly regulated by this action because this action would not impose regulations on these vessels or the associated LLP licenses, or relieve them from regulation. These three entities may voluntarily choose to submit a request for removal of the sideboard limits under this action, but are not required to do so.

#### *Reporting, Recordkeeping, and other Compliance Requirements*

The reporting, recordkeeping, and other compliance requirements will increase slightly under the action if eligible participants in the Central or Western GOA agree to submit an affidavit to NMFS requesting removal of the CR Program GOA sideboard limits. The reporting, recordkeeping, and other compliance requirements will not change under the action if eligible participants in the Central or Western GOA do not submit an affidavit to NMFS requesting removal of the CR Program GOA sideboard limits.

#### *Description of Significant Alternatives that Minimize Adverse Impacts on Small Entities*

A FRFA also requires a description of the steps the agency has taken to minimize the significant impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative (Alternative 2 as modified by Option 1, described below) adopted in the final rule and why each of the other significant alternatives to the rule considered by the agency that affect the economic impact on small entities was rejected. The suite of potential actions includes two alternatives, one associated option, and one associated suboption. A detailed description of these alternatives and options is provided in section 1.6 of the Analysis prepared for this action.

The Council considered two alternatives for this action. Alternative 1 is the status quo, which does not meet the objectives of the action. Alternative 2 would remove the CR Program GOA Pacific cod sideboard limits in either the Central GOA, Western GOA, or both regulatory areas. As part of Alternative 2, the Council and NMFS also considered an option and a suboption for removing the CR Program GOA Pacific cod sideboard limits. The option (i.e., this action) removes the CR Program GOA Pacific cod sideboard limits for the hook-and-line catcher/processor sector permanently if certain conditions are met by a specified date. The sub-option would have suspended the CR Program GOA Pacific cod sideboard limits for the hook-and-line catcher/processor sector on an annual basis if certain conditions are met annually.

The option requires all hook-and-line catcher/processor LLP license holders that are authorized to target Pacific cod in the Central or Western GOA (i.e., eligible participants) to submit a form to NMFS requesting the permanent removal of the GOA Pacific cod sideboard limit in that regulatory area on a one-time basis. The option also requires the request to be submitted within one year of the date of publication in the **Federal Register** of the final rule implementing Amendment 45, if approved by the Secretary.

The sub-option would have required all eligible participants to annually submit a form to NMFS requesting removal of the GOA Pacific cod sideboard limit in that regulatory area for the upcoming fishing year. Under the sub-option, if the annual form is not received by NMFS, the sideboard limits would not be removed for the following fishing year (i.e., January 1 through December 31).

This action implements Alternative 2 with the option to permanently remove the CR Program GOA sideboard limits if each eligible participant in a regulatory area submits to NMFS a form requesting removal and provides that form to NMFS within the required timeline. The Council rejected the sub-option because the annual suspension of sideboards could create uncertainty for participants, result in additional administrative burden and costs, and potentially create management instability. Although this action does not directly regulate small entities, the preferred alternative is the only alternative in the suite of options and alternatives considered that reduces the burden on directly regulated entities and best meets the purpose and need for this action.

#### *Collection-of-Information Requirements*

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by Office of Management and Budget (OMB) under control number 0648-0334. Public reporting burden for the Request to Extinguish Pacific Cod Sideboard Limits for Hook-and-Line Catcher/Processors in the Western or Central GOA is estimated to average 30 minutes per individual response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments on this burden estimate or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**), and by e-mail to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov), or fax to 202-395-5806.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of

information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at: [http://www.cio.noaa.gov/services\\_programs/prasubs.html](http://www.cio.noaa.gov/services_programs/prasubs.html).

### **List of Subjects**

#### *15 CFR Part 902*

Reporting and recordkeeping requirements.

#### *50 CFR Part 680*

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: May 11, 2015

---

Samuel D. Rauch III,  
Deputy Assistant Administrator for Regulatory Programs,  
National Marine Fisheries Service.



For the reasons set out in the preamble, NMFS amends 15 CFR part 902 and 50 CFR part 680 as follows:

**Title 15—Commerce and Foreign Trade**

**PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER  
THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS**

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In § 902.1, in the table in paragraph (b), under the entry “50 CFR”, add an entry in alphanumeric order for “680.22” to read as follows:

**§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.**

\* \* \* \* \*

(b) \* \* \*

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648-)
* * * * *	
50 CFR:	
* * * * *	
680.22	-0334
* * * * *	

**Title 50—Wildlife and Fisheries**

**PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE  
OFF ALASKA**

3. The authority citation for part 680 continues to read as follows:

Authority: 16 U.S.C. 1862; Pub. L. 109-241; Pub. L. 109-479.

4. In § 680.22, revise paragraph (e) heading and introductory text, and paragraph (e)(1) to read as follows:

**§ 680.22 Sideboard protections for GOA groundfish fisheries.**

\* \* \* \* \*

(e) *Conversion of sideboard ratios into annual sideboard harvest limits.* NMFS will convert sideboard ratios into annual sideboard harvest limits according to the following procedures.

(1) *Annual sideboard harvest limits.* (i) Except as provided in paragraph (e)(1)(ii) of this section, annual sideboard harvest limits for each groundfish species, except fixed-gear sablefish, will be established by multiplying the sideboard ratios calculated under paragraph (d) of this section by the proposed and final TACs in each area for which a TAC is specified. If a TAC is further apportioned by season, the sideboard harvest limit also will be apportioned by season in the same ratio as the overall TAC. The resulting harvest limits expressed in metric tons will be published in the annual GOA groundfish harvest specification notices.

(ii) NMFS will not establish an annual sideboard harvest limit for Pacific cod for vessels that catch and process Pacific cod using hook-and-line gear in the Central GOA Regulatory Area if all eligible participants request that the sideboard harvest limit be removed in accordance with the requirements of paragraph (e)(1)(ii)(A) of this section. NMFS will not establish an annual sideboard harvest limit for Pacific cod for vessels that catch and process Pacific cod using hook-and-line gear in the Western GOA Regulatory Area if all eligible participants request that the sideboard harvest limit be removed in accordance with the requirements of paragraph (e)(1)(ii)(B) of this section. NMFS will

publish notification of the removal of the sideboard harvest limit for Pacific cod for vessels that catch and process Pacific cod using hook-and-line gear in the Central GOA Regulatory Area or the Western GOA Regulatory Area through the annual GOA groundfish harvest specifications (see § 679.20(c)(1)(iii) and (c)(3)(ii)).

(A) *Central GOA*. For the Central GOA Regulatory Area (Statistical Areas 620 and 630; see Figure 3 to 50 CFR part 679), the holders of all LLP licenses listed in Column A of Table 10 to this part must submit to NMFS a completed Request to Extinguish Pacific Cod Sideboard Limits for Hook-and-Line Catcher/Processors in the Western or Central GOA, and the request must be received by NMFS on or before May 18, 2016.

(B) *Western GOA*. For the Western GOA Regulatory Area (Statistical Area 610; see Figure 3 to 50 CFR part 679), the holders of all LLP licenses listed in Column B of Table 10 to this part must submit to NMFS a completed Request to Extinguish Pacific Cod Sideboard Limits for Hook-and-Line Catcher/Processors in the Western or Central GOA, and the request must be received by NMFS on or before May 18, 2016.

\* \* \* \* \*

5. Add Table 10 to part 680 to read as follows:

Table 10 to Part 680-- License Limitation Program License Numbers that Authorize the Owners and Operators of Catcher/Processors to Directed Fish for Pacific Cod with Hook-and-Line Gear in the Central Gulf of Alaska Regulatory Area (Column A) and in the Western Gulf of Alaska Regulatory Area (Column B)

<b>Column A:</b>	<b>Column B:</b>
LLG1125	LLG1400
LLG1128	LLG1401
LLG1400	LLG1576

LLG1576	LLG1578
LLG1713	LLG1785
LLG1785	LLG1916
LLG1916	LLG1917
LLG1917	LLG2026
LLG1989	LLG2081
LLG2081	LLG2112
LLG2112	LLG2892
LLG2238	LLG2935
LLG2705	LLG3090
LLG2783	LLG3602
LLG2892	LLG3617
LLG2958	LLG3676
LLG3609	LLG4004
LLG3616	LLG4823
LLG3617	
LLG3676	
LLG3681	
LLG3973	
LLG4823	

[FR Doc. 2015-12066 Filed: 5/18/2015 08:45 am; Publication Date: 5/19/2015]